REMARKS

In a first Office Action dated October 4, 2006, the Examiner objected to the Abstract, the specification, and claims 3 and 6 due to several informalities. The Examiner rejected claim 8 under 35 U.S.C. §102(e) as being anticipated by Butler et al. (U.S. patent no. 6,545,989, hereinafter referred to as "Butler") and rejected claims 10-11 under 35 U.S.C. §102(e) as being anticipated by Shaffer et al. (U.S. patent no. 6,683,889, hereinafter referred to as "Shaffer"). The Examiner the rejected the following claims under 35 U.S.C. §103(a) as being unpatentable over the following art: claims 1, 2, and 4 being unpatentable over Shaffer, claims 3 and 5-7 as being unpatentable over Shaffer in view of Kwan (U.S. patent no. 6,504,838), claim 12 as being unpatentable over Shaffer in view of Vaid et al. (U.S. patent no. 6,119,235), claim 13 as being unpatentable over Yeom et al. (U.S. patent no. 6,917,607, hereinafter referred to as "Yeom") in view of Cohen et al. (U.S. patent no. 5,825,771, hereinafter referred to as "Cohen"), and claim 14 as being unpatentable over Nicol (U.S. patent no. 6,757,367). The Examiner objected to claim 9 as being dependent upon a rejected base claim but as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. The rejections and objections are traversed and reconsideration is hereby respectfully requested.

The Examiner objected to the Abstract, the specification, and claims 3 and 6 due to several informalities. The applicant has amended the Abstract, the specification, and claims 3 and 6 to correct the informalities. Accordingly, the applicant respectfully requests that the Examiner withdraw the objections based on informalities.

The Examiner the rejected claims 1, 2, and 4 under 35 U.S.C. §103(a) as being unpatentable over Shaffer. Specifically, with respect to claim 1, the Examiner contended that Shaffer teaches a method for determining a jitter buffer depth target (FIG. 6) comprising steps of determining a radio frequency (RF) load metric corresponding to a base site, comparing the determined RF load metric to an RF load threshold to produce a comparison, and determining a jitter buffer depth target based on the comparison (col. 3, lines 33-41; col. 5, line 27; and col. 5, lines 30-38). The Examiner acknowledged that

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Shaffer does not teach an RF load metric corresponding to a base site but contended that this would have been obvious based on Shaffer teaching a different audio codec to be used for implementing a different received signal (col. 3, lines 32-45, and col. 4, lines 14-27). The applicant respectfully disagrees with the Examiner's application of Shaffer to the pending application.

Shaffer merely teaches a system where a jitter buffer depth is adjusted based on an occupancy of the jitter buffer, that is, a delay within the jitter buffer. More particularly, Shaffer teaches that if a buffer occupancy exceeds a threshold then the delay within the buffer is too long and the buffer depth should be decreased, and if a buffer occupancy falls below a threshold then the delay within the buffer is too short (and the buffer may empty) and the buffer depth should be increased. By contrast, claim 1 teaches adjusting a jitter buffer depth based on an RF load metric. Observing an amount of data that is stored in a jitter buffer is not a determination of an RF load metric. Nowhere does Shaffer teach any determining of an RF load metric, let alone adjusting a jitter buffer depth based on an RF load metric. For example, an amount of data stored in a jitter buffer is something that can be observed only after a call is in progress. By contrast, an RF load metric can be observed before a call actually begins and thus claim 1 teaches a jitter buffer depth that may be set before the call starts and before any observations, and speech sequences leading to audio degradation, have occurred. This is not taught by Shaffer. Furthermore, a system may be more or less loaded and yet there may be no difference in buffer occupancy. Therefore, nowhere does Shaffer teach the features of claim 1 of determining an RF load metric corresponding to a base site and determining a jitter buffer depth target based on a comparison of the determined RF load metric to an RF load threshold. Accordingly, the applicant respectfully requests that claim 1 may now be passed to allowance

Claim 4 teaches determining to retransmit erroneously received frames when the determined RF load metric is greater than the RF load threshold. Shaffer teaches nothing concerning retransmissions. For this reason, and since claims 2-7 depend upon allowable claim 1, the applicant respectfully request that claims 2-7 may now be passed to allowance.

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The Examiner rejected claim 8 under 35 U.S.C. §102(e) as being anticipated by Butler. Specifically, the Examiner contended that Butler teaches a method of conveying data from a transmitting communication device to a receiving communication device that are each in wireless communication with a wireless infrastructure (col. 1, lines 15-19; col. 12, line 41, to col. 13, line 7; and col. 15, lines 54-67) comprising steps of establishing a reverse link between the transmitting communication device and the wireless infrastructure, establishing a forward link between the wireless infrastructure and the receiving communication device, wherein the reverse link is established prior to the establishment of the forward link, and signaling a user of the transmitting communication device to begin transmitting data prior to the establishment of the forward link (col. 12, line 41, to col. 13, line 7). The applicant respectfully disagrees with the Examiner's application of Butler to the pending application.

Butler merely teaches a single wireless communication device in communication with a wireless base station. More particularly, Butler is concerned with controlling power and data rates of transmissions from the wireless communication device to the base station. Although Butler notes that the invention can be applied to transmissions by any communication device, that does not detract from the fact that Butler still merely teaches a single leg of a communication session. Butler teaches nothing concerning an establishing both of a reverse link between a transmitting communication device and the wireless infrastructure and a forward link between the wireless infrastructure and a receiving communication device for a conveying of data from the transmitting communication device to the receiving communication device via the wireless infrastructure, wherein both the transmitting communication device and the receiving communication device are in wireless communication with the wireless infrastructure. Furthermore, as Butler teaches only a single leg, Butler cannot be considered to teach an order in which the two legs are established. In addition, Butler teaches nothing concerning any signaling of the user of the wireless communication device, let alone a signaling a user of the transmitting communication device to begin transmitting data, for example, a playing of a Talk Permit Tone to the user, prior to the establishment of the forward link.

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Therefore, Butler does not teach the features of claim 8 of a method of conveying data from a transmitting communication device to a receiving communication device in a packet data communication system, wherein the transmitting communication device and the receiving communication device are each in wireless communication with a wireless infrastructure and wherein the method includes steps of establishing a reverse link between the transmitting communication device and the wireless infrastructure, establishing a forward link between the wireless infrastructure and the receiving communication device, wherein the reverse link is established prior to the establishment of the forward link, and signaling a user of the transmitting communication device to begin transmitting data prior to the establishment of the forward link. Accordingly, the applicant respectfully requests that claim 8 may now be passed to allowance

Claim 9 was objected to as being dependent upon a rejected base claim but as being allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claim. Claim 9 has been so amended. Accordingly, the applicant respectfully requests that the Examiner withdraw the objection to claim 9.

The Examiner rejected claim 10 under 35 U.S.C. §102(e) as being anticipated by Shaffer. Claim 10 teaches a method for determining a size of a jitter buffer determining a number of retransmissions permitted of an erroneously received frame and determining a size of the jitter buffer based on the determined number of permitted retransmissions. In rejecting claim 10, the Examiner contended that Shaffer teaches analyzing an incoming packet rate and equated this to a determining of a number of retransmissions. The applicant respectfully disagrees. Shaffer teaches nothing concerning retransmissions, let alone how to determine a number of retransmissions based on a packet rate. These are two different concepts; a packet rate need not vary when the packets include or do not include retransmitted packets, and a mere detecting of a packet rate is not the same as an analysis of whether received packets are retransmissions. Therefore, Shaffer does not teach the features of claim 10 of determining a number of retransmissions permitted of an erroneously received frame and determining a size of the jitter buffer based on the determined number of permitted retransmissions. Accordingly, the applicant respectfully request that claim 10 may now be passed to allowance.

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Since claims 11 and 12 depend upon allowable claim 10, the applicant respectfully request that claims 11 and 12 may now be passed to allowance.

The Examiner rejected claim 13 under 35 U.S.C. §103(a) as being unpatentable over Yeom in view of Cohen and rejected claim 14 under 35 U.S.C. §103(a) as being unpatentable over Nicol. Claims 13 and 14 have been cancelled.

As the applicant has overcome all substantive rejections and objections given by the Examiner and has complied with all requests properly presented by the Examiner, the applicant contends that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicant respectfully solicits allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Respectfully submitted,
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